The Telangana Excise Act, 1968

Act Act No.17 of 1968. 91 sections. Bare Act with the official footnotes.

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Every section online, with the old and new law side by side and exam questions:
https://www.lawmaker.in/bare-acts/telangana-excise-act-1968

Contents

CHAPTER I. PRELIMINARY (Sections 1 to 2)
CHAPTER II. ESTABLISHMENT AND CONTROL. (Sections 3 to 8)
CHAPTER III. IMPORT, EXPORT AND TRANSPORT. (Sections 9 to 12)
CHAPTER IV. MANUFACTURE, POSSESSION AND SALE. (Sections 13 to 20)
CHAPTER V. EXCISE DUTY AND COUNTERVAILING DUTY. (Sections 21 to 27)
CHAPTER VI. LICENCES AND PERMITS. (Sections 28 to 33)
CHAPTER VII. OFFENCES AND PENALTIES. (Sections 34 to 50-A)
CHAPTER VIII. DETECTION, INVESTIGATION AND TRIAL OF OFFENCES. (Sections 51 to 62)
CHAPTER IX. APPEALS AND REVISION. (Sections 63 to 64)
CHAPTER X. MISCELLANEOUS. (Sections 65 to 73)
Schedules (1): see the end of this PDF

CHAPTER I. PRELIMINARY

Section 1. Short title, extent and commencement

(1) This Act may be called the [1]Telangana Excise Act, 1968.

[2][(2) It extends to the whole of the State of [1]Telangana:

Provided that on and from the date of commencement of the [3]Telangana Prohibition Act, 1995 the provisions of this Act, shall in so far as they are inconsistent with the provisions of the said Act cease to operate.]

(3) It shall come into force on such date as the Government may, by notification, appoint.

[1] Substituted by G.O.Ms.No.162, Revenue (Excise-II) Department, dated 10.09.2015.
[2] Substituted by Act No.17 of 1995.
[3] Adapted by G.O.Ms.No.6, Revenue (Excise-II) Department, dated 06.01.2016.

Section 2. Definitions

In this Act, unless the context otherwise requires,-

(1) "arrack" includes all liquor produced or manufactured in India and supplied by the Government, other than Foreign Liquor and [1][Indian Made Foreign Liquor];

[2][(1A) "Bar" means the privilege granted under the Act to an establishment, where food is served, for sale of [1][Indian Made Foreign Liquor] and Foreign Liquor in loose for consumption on the licensed premises];

(2) "beer" includes ale, stout, porter and all other fermented liquors usually made from malt;

[2][(2A) "Bonafide purpose" means the privilege granted under the Act for the sale or use as the case may be, of any intoxicant, any material or any liquor and does not include [1][Indian Made Foreign Liquor], Foreign Liquor and Toddy];

[3][(3) "bottle" means to transfer liquor from one cask to another cask or from a cask or vessel to a bottle, jar, flask, pot, closed packet, basket, tin, barrel, case, receptacle, bag, sack or wrapper or any other receptacle in any form in which any intoxicant is packed for the purpose of sale whether or not any process of manufacture is employed and includes re-bottling];

(4) "buy or buying" includes any receipt including gift;

(5) "Collector" means the Collector of a district and includes [3][the Joint Collector] or any person appointed by the Government to exercise the powers and to perform the functions of collector under this Act;

(6) "Commissioner" means the officer appointed under section 3;

[4][(6A) "Corporation" means the [5][Telangana State] Beverages Corporation Limited, Hyderabad;]

(7) "cultivation" or "cultivating" includes the tending or protecting of a plant during growth and does not necessarily

imply raising it from seed;

(8) "denatured" means subjected to a process prescribed for the purpose of rendering unfit for human consumption;

[6][(9) "excisable article" means any alcoholic liquor for human consumption; or any intoxicating drug];

(10) "excise duty" or "countervailing duty" means the duty of excise or countervailing duty, as the case may be, mentioned in entry 51 in List II of the seventh Schedule to the Constitution;

(11) [7]["Prohibition and Excise Officer"] means the Commissioner, the Collector or any officer or other person lawfully appointed or invested with powers under the relevant provisions of this Act;

[8][(11-A) "District Prohibition and Excise Officer" means the Prohibition and Excise Superintendent or Assistant Prohibition and Excise Superintendent or any officer lawfully appointed or invested with powers under the relevant provisions of the Act.]

(12) "excise revenue" means revenue derived or derivable from any duty, fee, tax, rent, fine, penalty or confiscation levied, imposed or ordered under the provisions of the Act or any other law for the time being in force relating to intoxicating liquors or intoxicating drugs;

(13) "excise tree" includes the tree of mohwa, coconut, palm, palmyrah, date, bagani, sago, sendhi or any tree of the species of palm or palmyrah, from the fermented or unfermented juice of which toddy or liquor can be prepared;

(14) "export" means:-

(a) to take out of any area of the State to which this Act extends to any other area of the State to which this Act does not extend;

(b) to take out of the State otherwise than from a Customs station as defined in section 2 of the Customs Act, 1962;

(15) "foreign liquor" includes every Liquor imported into India other than [1][Indian Made Foreign Liquor] and arrack;

(16) "Government" means the State Government;

(17) "import" except in the phrase "Import into India" means,-

(a) to bring into any area of the State to which this Act extends from any other area of the State to which this Act does not extend;

(b) to bring into the State otherwise than from a customs station, as defined in section 2 of the Customs Act 1962;

[9][(18) "Indian Made Foreign Liquor" means liquor produced, manufactured or compounded in India after the manner of Gin, brandy, whisky or rum imported from foreign countries and includes Wine, Beer, Milk Punch and other liquors consisting of or containing any such spirits, but does not include Foreign Liquor;]

[10][(18-A) "in-house" means the privilege granted under the Act for sale of [1][Indian Made Foreign Liquor] and Foreign Liquor by club, Guest House of [11][Telangana State] Tourism Development Corporation, Military Canteen, Airport Transit lounge for International Air passengers;]

(19) "intoxicant" means any liquor as defined in clause (21) or any intoxicating drug as defined in clause (20) and includes gulmohwa (that is, mohwa flower);

(20) "intoxicating drug" means,-

(a) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant including all forms known as bhang, siddi or ganja;

(b) charas, that is, the resin obtained from the Indian hemp plant which has not been submitted to any manipulations other than those necessary for packing and transport;

(c) any mixture with or without neutral materials of any of the above forms of intoxicating drug or any drink prepared therefrom; and

(d) any other intoxicating or narcotic substance which the Government may, by notification, declared to be an intoxicating drug, such substance not being opium, cocoa leaf or manufactured drug as defined in section 2 of the [12][Narcotic Drugs and Psychotropic Substances Act, 1985;]

(21) "liquor" includes,-

(a) Spirits of wine, denatured spirits, methylated spirits, rectified spirits, wine, beer, toddy and every liquid consisting of or containing alcohol; and

(b) Any other intoxicating substance which the Government may by notification, declare to be liquor for the purposes of this Act;

(22) "manufacture" includes every process, whether natural or artificial, by which any fermented, spirituous or intoxicating liquor or intoxicating drug is produced, prepared or blended and also re-distillation and every process for the rectification of liquor;

[13][(22-A) "material" includes molasses, wash and such other substances as the State Government may, by notification, specify;

(22-B) "molasses" means the heavy, dark coloured residual syrup drained away in the final stage of the manufacture of jaggery or sugar or khandasari sugar cane or gur containing solution or suspension, sugars which can be fermented and includes any product formed by the addition to such syrup of any ingredient which does not substantially alter the character of such syrup but does not include any article which the State Government may, by notification, declare not to be molasses, for the purpose of this Act;]

(23) "notification" means a notification published in the [14]Telangana Gazette, and the term 'notified' shall be construed accordingly;

(24) "place" includes a house, building, booth, shed, enclosure, shop, tent, vessel, raft and vehicle;

(25) "police station" includes any place which the Government may, by notification, declared to be a police station for the purposes of this Act;

(26) "prescribed" means prescribed by rules made under this Act;

(27) "rectification" includes every process whereby spirits are purified or are coloured or flavoured by mixing any material therewith;

(28) "sale" or "selling" includes any transfer otherwise than by way of gift;

[15][(28-A) "Shop" means the privilege granted under the Act for the exclusive sale of [1][Indian Made Foreign Liquor] and Foreign Liquor in sealed or capsuled bottles or packages or tins to an individual in quantities not exceeding the limits as prescribed without permitting consumption on the licensed premises;]

(29) "spirit" means any liquor containing alcohol and obtained by distillation, whether it is denatured or not;

(30) "toddy" means fermented or unfermented juice drawn from an excise tree and containing alcohol;

(31) "transport" means to move from one place to another within the State, whether or not the intervening area lies wholly within the State, [16][and includes, to move from a place outside the State to any other place outside it through the intervening area lying within the State;]

[17][(32) "Wash" includes fermented wort or a dilute solution of sugar from which spirit is distilled.]

[1] Throughout the Act, for the words "Indian Liquor", the words "Indian Made Foreign Liquor" substituted vide. Act No.17 of 2006.
[2] Inserted by Act No.35 of 2005.
[3] Substituted by Act No.4 of 1994.
[4] Inserted by Act No.17 of 2006.
[5] Substituted by G.O.Ms.No.162, Revenue (Excise-II) Department, dated 10.09.2015.
[6] Substituted by Act No.20 of 1994.
[7] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.] $ Throughout the Act for "Prohibition and Excise Superintendent" substituted "District Prohibition and Excise Officer" (Act No.32 of 2017).
[8] Inserted by Act No.32 of 2017.
[9] Substituted by Act No.17 of 2006.
[10] Inserted by Act No.35 of 2005.
[11] Substituted by G.O.Ms.No.162, Revenue (Excise-II) Department, dated 10.09.2015.
[12] Substituted by Act No.20 of 1994.
[13] Inserted by Act No.12 of 2005.
[14] Substituted by G.O.Ms.No.162, Revenue (Excise-II) Department, dated 10.09.2015.
[15] Inserted by Act No.35 of 2005.
[16] Added by Act No.10 of 1989.
[17] Inserted by Act No.12 of 2005.

CHAPTER II. ESTABLISHMENT AND CONTROL.

Section 3. Appointment of Commissioner

(1) The Government may, by notification, appoint an officer as the [1][Commissioner of Prohibition and Excise] for the State, who subject to the general or special orders of the Government in this behalf, shall be the chief controlling authority in all matters connected with the administration of this Act.

(2) The Commissioner shall be competent to exercise all the powers of the Collector under this Act and shall have the control of the administration of the [1][Prohibition and Excise Department].

[1] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

Section 4. General control of Commissioner over Collector

The Collector shall exercise the powers and perform the functions assigned by or under this Act, subject to the general control of the Commissioner.

Section 5. Appointment of certain officers and staff

[1][(1) The Government may appoint such number of Additional Commissioners, Joint Commissioners, Deputy Commissioners and Assistant Commissioners of Prohibition and Excise and District Prohibition and Excise Officers and such other officers as they think fit for the purpose of performing the functions respectively conferred on them by or under this Act.

(2) The Government may sanction the appointment of as many [2][District Prohibition and Excise Officers], [3][Assistant Prohibition and Excise Superintendents] and other subordinate staff as they think fit for the purpose of performing the functions respectively conferred on them by or under this Act.

(3) The appointment of the posts sanctioned in sub-section (2), shall be made by such authority as may be prescribed.

(4) All such officers shall perform the said functions within such area or areas or in the whole of the State as the Government or the Commissioner may assign to them;]

[1] Section 5 along with marginal heading substituted by Act No.10 of 1989 and sub-section (1) further substituted by Act No.17 of 1995.

[2] Throughout the Act, for the words "Prohibition and Excise Superintendent" the words "District Prohibition and Excise Officer" substituted vide. Act No.32 of 2017.

[3] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

Section 6.

[1][[xxx]]

[1] Section 6 omitted by Act No.10 of 1989.

Section 7.

[1][[xxx]]

[1] Section 7 omitted by Act No.10 of 1989.

Section 8. Delegation

The Commissioner, the Collector or the [1][District Prohibition and Excise Officer] may, by order delegate to any officer subordinate to him any of the powers conferred on or functions entrusted to the Commissioner, the Collector, or the [1][District Prohibition and Excise Officer] by or under this Act, subject to such restrictions and control as may be prescribed, and subject also to such limitations and conditions, if any as be specified in the order of delegation.

[1] Throughout the Act, for the words "Prohibition and Excise Superintendent" the words "District Prohibition and Excise Officer" substituted vide. Act No.32 of 2017.

CHAPTER III. IMPORT, EXPORT AND TRANSPORT.

Section 9. Import of intoxicant

(1) No intoxicant shall be imported except under a permit issued by such officer, not below the rank of an [1][District Prohibition and Excise Officer], and on such terms as may be prescribed, and on payment of such excise duty or countervailing duty and fees, as may be levied under this Act:

Provided that the said officer may subject to such restrictions and conditions as may be prescribed to ensure the collection of the excise duty or countervailing duty, permit the import of an intoxicant without the payment of the excise duty or countervailing duty:

Provided further that no countervailing duty shall be payable on the intoxicant which, being liable to the payment of duty under the Indian Tariff Act, 1934, or any other law for the time being in force relating to the duties of customs on goods imported into India, has been dealt with according to such law.

(2) The officers referred to under sub-section (1) may by an order, cancel any permit issued under that sub-section for breach of any of the terms subject to which it was issued or for any other reason to be recorded in writing therein.

[1] Throughout the Act, for the words "Prohibition and Excise Superintendent" the words "District Prohibition and Excise Officer" substituted vide. Act No.32 of 2017.

Section 10. Export of intoxicant

(1) No intoxicant shall be exported except under a permit issued by such officer, not below the rank of an [1][District Prohibition and Excise Officer], and on such terms, as may be prescribed and on payment of such fee as may be levied under this Act:

Provided that no intoxicant produced or manufactured in India shall be permitted to be exported unless the excise duty or countervailing duty to which such intoxicant is liable, has been paid.

(2) The officer referred to under sub-section (1) may, by an order, cancel any permit issued under that sub-section for breach of any of the terms subject to which it was issued or for any other reason to be recorded in writing therein.

[1] Throughout the Act, for the words "Prohibition and Excise Superintendent" the words "District Prohibition and Excise Officer" substituted vide. Act No.32 of 2017.

Section 11. Regulation of transport of intoxicants

[1][(1) The Government may, by notification, prohibit or regulate the transport of an intoxicant or any kind of intoxicants from any area into any other area within the State or from any place outside the State to any other place outside it through the intervening area lying within the State except under a permit issued under section 12.]

(2) No intoxicant exceeding such quantity as may be prescribed either generally or for any particular area, shall be transported, except under a permit issued under section 12.

[1] Substituted by Act No.10 of 1989.

Section 12. Permits for transport of intoxicants

[1][(1) Any officer not below the rank of an [2][Assistant Prohibition and Excise Superintendent] authorized by the Commissioner may issue a permit for the transport of intoxicants.]

(2) A permit under sub-section (1) may be either a general for definite periods and kinds of intoxicant or special, for specified occasions and particular consignments only:

Provided that a general permit, shall be issued only to persons licenced under this Act and may specify the maximum quantity of intoxicant that may be transported at any one time.

(3) Every permit under this section shall specify-

(a) the name of the person authorized to transport intoxicants;

(b) the period for and the route through which the permit shall be valid;

(c) the quantity, strength and description of intoxicants for which it is issued; and

(d) any other particulars and conditions which may be prescribed.

Explanation:- The expression 'person authorised' in this sub-section shall include his servants and other persons employed by him and acting on his behalf.

[1] Substituted by Act No.10 of 1989.

[2] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent

8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

CHAPTER IV. MANUFACTURE, POSSESSION AND SALE.

Section 13. Manufacture, etc., of excisable article prohibited except under a licence

(1) No person shall -

(a) manufacture or collect an intoxicant;

(b) cultivate hemp plant;

(c) tap an excise tree or draw toddy from any such tree;

(d) construct or work distillery or brewery;

(e) bottle liquor for sale; or

(f) use, keep or have in his possession, any materials, stills, utensils, implements or apparatus, whatsoever for the purpose of manufacturing any intoxicant other than toddy,

except under the authority and subject to the terms and conditions of a licence granted by such officer, not below the rank of an [1][District Prohibition and Excise Officer], as may be prescribed:

[2][Provided that the provisions of this sub-section, in so far as they relate to establishing, continuing or licensing a distillery shall apply only to those distilleries which manufacture spirits for potable purpose and regulatory provisions relating to regulation and supervision, shall be applicable to all distilleries.]

(2) A licence granted under this section shall extend to and cover servants and other persons employed by the licensee and acting on his behalf.

(3) Notwithstanding anything in sub-section (1) the Government may, by notification direct that in such area as may be specified therein, it shall not be necessary to take out a licence for the manufacture of liquor for bonafied home consumption of the manufacturer.

[1] Throughout the Act, for the words "Prohibition and Excise Superintendent" the words "District Prohibition and Excise Officer" substituted vide. Act No.32 of 2017.

[2] Added by Act No.11 of 2000.

Section 14. Possession of excisable articles in excess of the quantity prescribed

(1) The Government may, by notification, specify the maximum quantity of any intoxicant which a person may have in his possession:

Provided that the different maxima may be specified for different descriptions or kinds of intoxicants.

(2) No person shall have in his possession any intoxicant in excess of the quantity specified under sub-section (1), except under the authority and in accordance with the terms and conditions of -

(a) a licence for the manufacture, cultivation, sale, buying or supply of such article, or

(b) a permit;

granted by such officer, not below the rank of an [1][District Prohibition and Excise Officer], as may be prescribed.

[1] Throughout the Act, for the words "Prohibition and Excise Superintendent" the words "District Prohibition and Excise Officer" substituted vide. Act No.32 of 2017.

Section 15. Sale or buying of excisable article without licence prohibited

(1) No person shall sell or buy any intoxicant except under the authority and in accordance with the terms and conditions of a licence granted in this behalf:

Provided that a person having a licence to draw toddy from an excise tree, may sell such toddy to a person licensed to buy toddy under this Act without obtaining a licence for such sale but subject to such restrictions and conditions as the Commissioner may, by general or special order, specify.

(2) A licence for sale or buying under sub-section (1), shall be granted-

(a) by the [1][District Prohibition and Excise Officer], if the sale or buying is within a district;

(b) by the Deputy Commissioner, if the sale or buying is in more than one district within his jurisdiction; and

(c) by the Commissioner, if the sale or buying is in an area within the jurisdiction of more than one Deputy Commissioner:

Provided that subject to such conditions as may be determined by the Commissioner, a licence for sale or buying granted under the excise law in force in any other part of India may be deemed to be a licence granted under this Act.

(3) Nothing in this section shall apply to the sale of any liquor lawfully procured by any person for his private use and sold by him or on his behalf of his representatives in interest upon his quitting a station or after his decease.

(4) Notwithstanding anything in sub-sections (1) and (2), no club or a hotel shall supply liquor to its members or customers on payment of a price or any fee or subscription except under the authority and in accordance with the terms and conditions of a licence granted in that behalf by the Commissioner on payment of such fees as may be fixed by him according to scale of fees prescribed therefor.

[1] Throughout the Act, for the words "Prohibition and Excise Superintendent" the words "District Prohibition and Excise Officer" substituted vide. Act No.32 of 2017.

Section 16. Establishment of distillers and warehouses

(1) The Commissioner, with the previous sanction of the Government,-

(a) establish or continue a distillery in which spirit may be manufactured [1][xxx] on such conditions as the Government may impose;

(b) discontinue any distillery so established or continued;

(c) licence, on such conditions as the Government may impose, the construction and working of a distillery or brewery;

(d) establish, continue or licence a warehouse wherein intoxicants may be deposited and kept;

(e) discontinue any warehouse so established or continued.

(2) A warehouse established under sub-section (1), shall be for general accommodation of intoxicants subject to duty, pending removal for local consumption or for export.

(3) Without the sanction of the Government, no person shall remove any intoxicant from any distillery, brewery, warehouse or other place of storage established, continued or licensed under this Act, unless the duty, if any, imposed under this Act has been paid:

[2][Provided that the provisions of this section in so far as they relate to establishing, continuing or licensing a distillery shall apply only to those distilleries which manufacture spirits for potable purpose and other regulatory provisions relating to regulation and supervision, shall be applicable to all distilleries.]

[1] Omitted by Act No.23 of 1971.
[2] Added by Act No.11 of 2000.

Section 17. Grant of exclusive privilege of manufacture etc

[1][(1) Subject to the provisions of section 28 and any rules made in this behalf, the Government may, subject to such conditions as they may deem fit to impose, grant for a fixed period to any person either jointly or severally, at any place within any such area in the state as may be specified, a lease or licence or both for the exclusive privilege,-

(i) of tapping, drawing toddy from any excise tree or selling or of both; or

(ii) of manufacturing; or

(iii) of supplying or selling by wholesale or of both; or

(iv) of manufacturing, of supplying and selling by wholesale; or

(v) of selling by shop; or

(vi) of selling by Bar; or

(vii) of selling by in-house; or

(viii) of selling or using for bonafide purpose as may be specified

any liquor or other intoxicant or material as may be specified in the said order.

(2) It shall be lawful for the Government to prescribe from time to time different methods of selection for grant of exclusive privilege for different purposes under sub-section (1).

(3) Notwithstanding anything contained in sub-section (1), a lease or licence or both in respect of 'Shop' may be granted [2][for a period not exceeding two years at a time].

(4) No grantee of any privilege under sub-section (1) or sub-section (3) shall exercise the same unless the Commissioner of Prohibition and Excise, or any officer authorized in this behalf issues a licence.

(5) The Government may confer on any officer all or any of the powers mentioned in sub-sections (1) and (3).

(6) The Commissioner of Prohibition and Excise, may after due enquiry as he may deem fit, permit a licence holder in respect of manufacture of any liquor or intoxicant to sub-let such a privilege and grant a licence to the person who holds the sub-lease, on collection of such fee as may be prescribed.]

[1] Section 17 with marginal heading substituted by Act No.10 of 1984 and subsequently by Act No.35 of 2005.
[2] Substituted by Act No.39 of 2006.

Section 18. Duties of licensees with regard to measurement and testing

Every person, who manufactures or sells any intoxicant under a licence granted under this Act shall be bound,-

(a) to keep such measures, weights and instruments as the Commissioner may specify on the licensed premises and to maintain them in good condition; and

(b) on the requisition of the [1][Prohibition and Excise Officer] duly empowered in that behalf, at any time to measure, weigh or test any intoxicant in his possession in such manner as that officer may require.

[1] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

Section 19. Prohibition of employment of children and of persons suffering from contagious diseases

(1) No person, who is licensed to sell any intoxicant for human consumption on his premises shall, during the hours in which such premises are kept open for such purpose, employ or permit to be employed, either with or without remuneration, any children under such age as may be prescribed, in any part of the premises where the intoxicant is consumed by the public.

(2) No such person as is referred to in sub-section (1) shall employ or permit to be employed either with or without remuneration, any person who is suffering from leprosy or any other contagious disease.

Section 20. Closing of shops for preservation of public peace

(1) The District Magistrate may, by notice in writing to the [1][licensee/lease holder] require that any [1][shop/bar] in which any intoxicant is sold shall be closed at such times or for such period as he may think necessary for the preservation of the public peace.

Explanation:- For the purposes of this section, the expression 'District Magistrate' includes the Additional District Magistrate or any other person empowered to exercise the powers of District Magistrate.

(2) If any riot or any unlawful assembly is apprehended or occurs in the vicinity of any such [2][shop/bar] any Magistrate of the first or second class may, for reasons to be recorded in writing, require such [2][shop/bar] to be kept closed for such reasonable period as he may think necessary.

[2][(3) The licensee/lease holder shall not, on account of closure of the shop/bar under this section, be entitled to any compensation or refund of licence fee or lease amount.]

[1] Substituted by Act No.1 of 2010.
[2] Substituted by Act No.1 of 2010.

CHAPTER V. EXCISE DUTY AND COUNTERVAILING DUTY.

Section 21. Excise duty or countervailing duty on excisable articles

(1) The Government may, by notification, levy an excise duty on any excisable article manufactured or produced in the State [1][xxx] at such rate, [2][xxx] as may be specified in the notification.

[3][(2) (1) The Government may, by notification, levy a countervailing duty on any excisable article manufactured or produced elsewhere in India and imported into the State at such rates as may be specified in the notification, which may not exceed the rates of excise duty on similar excisable articles levied under sub-section (1).

(2) The Government may, by notification levy assessment fee or both on any excisable article manufactured or produced in any place outside India and imported into the State at such rates as may be specified in the notification.]

(3) Different rates may be specified under sub-section (1) and (2) for different kinds of excisable articles and for different modes of levying duties under section 22.

[4][(4) Notwithstanding anything contained in this Act, it shall be open to the Government, by notification to levy such other taxes, or duties or cess or any other fee or registration fee or penalties or discounts, at any stage, in respect of excisable articles or on any person connected with the trade of excisable articles as may be specified in the notification.]

[1] Omitted by Act No.23 of 1971.
[2] Omitted by G.O.Ms.No.162, Revenue (Excise-II) Department, dated 10.09.2015.

[3] Substituted by G.O.Ms.No.162, Revenue (Excise-II) Department, dated 10.09.2015.
[4] Added by Act No.32 of 2017.

Section 22. Modes of levying duties

The excise and countervailing duty under section 21 shall be levied in one or more of the following modes:-

(a) rateably, [1][on the quantity or advalorem of any excisable article] produced or manufactured in or issued from a distillery, brewery or manufactory or warehouse or imported into the State;

(b) In the case of spirits or other liquors produced in [2][any distillery, brewery or manufactory], in accordance with its quality or strength or in accordance with such scale of equivalents calculated on the quantity of materials used, or by the degree or attention of the wash or wort, as the case may be, as be prescribed;

(c) In the case of toddy, in the form of a tax on each variety of excise tree from which toddy is drawn having due regard to the period during which such tree is capable of yielding toddy;

[3][(d) By different rates of fees on licenses issued for different purposes mentioned in sub-section (1) of section 17, as may be prescribed.]

[1] Substituted by Act No.39 of 2006.
[2] Substituted by Act No.23 of 1971.
[3] Substituted by Act No.35 of 2005.

Section 23. Payment for exclusive privilege

[1][(1) Instead of or in addition to any excise duty or fees leviable under section 21 and 22, the Commissioner or any other officer authorised may accept payment of a sum in consideration of the grant of lease or licence or both for the exclusive privilege in respect of liquor or any other intoxicant under section 17.

(2) It shall be lawful for the Government to prescribe different rates of exclusive privilege fee for different purposes mentioned in sub-section (1) of section 17.]

[1] Section 23 with marginal heading substituted by Act No.10 of 1984. Renumbered by Act No.35 of 2005 as sub-section (1) with amendments and sub-section (2) added.

Section 23-A.

[1][[xxx]

[1] Sections 23-A & 23-B inserted by Act No.17 of 2006. Subsequently omitted by Act No.5 of 2012.

Section 23-B.

[xxx]]

Section 24. Owner or other person in possession of excise trees to give intimation of unwillingness to tap excise trees, etc

(1) Where in any area, a duty under section 21 is levied, the owner or other person in possession of the excise trees in that area, who is unwilling to have his excise trees tapped or to allow the drawal of toddy there from, shall, before the date notified in this regard by the authority empowered to grant a licence under section 13, intimate his unwillingness in writing to the said authority. [1][Every such intimation received before the date so notified may be approved by the Commissioner subject to such rules as may be made in this behalf and shall take effect only on and from the date on which it is so approved; and the intimation so approved shall not be revoked during the period of seventeen months from the date so notified.]

(2) Where no such intimation is received by the said authority before the date so notified, the licence applied for under section 13 may be granted to the person applying therefor.

[2][(3) [xxx]]

[1] Substituted by Act No.6 of 1974.
[2] Sub-section (3) omitted by Act No.10 of 1989.

Section 25. Recovery of duty under this Act from person other than the licensee in certain cases

Where the excise trees are tapped or toddy is drawn therefrom without any licence under section 13, the duty payable [1][under this Act] shall be recoverable primarily from the person who has tapped the excise trees or caused them to be tapped and in default of payment by, or on failure of recovery from such person, the duty shall be recoverable from the occupier, if any, of the land in which the said excise trees are standing, or if the excise trees do not belong to the occupier of such land or if the land is not occupied by any person, from the owner or other person in possession of the excise trees, unless such owner or other person proves that the excise trees were tapped or toddy was drawn

there from without his knowledge.

[1] Substituted including in the marginal heading by Act No.4 of 1979.

Section 26. Rent to which the owner or person in possession of excise trees is entitled

Where a licence is granted, the owner or other person in possession of excise trees shall be entitled to receive as rent for each excise tree from which toddy is tapped or drawn, [1][such sum as may be prescribed, [2][xxx] and the said rent shall be paid, by the person from whom the duty under this Act is payable, directly to the owner or other person who is entitled to it.]

[1] Substituted by Act No.4 of 1979.
[2] Omitted by Act No.10 of 1989.

Section 27. Prohibition of cutting down or destroying [xxx] excise trees

No person shall without the permission of the Collector or such officer as may be empowered by the Government in this behalf, cut down or destroy any excise tree [1][xxx] such permission may be given subject to such conditions and on payment of such fee as may be prescribed.

[1] The words "belonging to the Government" in section and "Government" in marginal heading omitted by Act No.10 of 1989.

CHAPTER VI. LICENCES AND PERMITS.

Section 28. Form and conditions of licence, etc

(1) Every permit issued or licence granted under this Act shall be issued or granted on payment of such fees, for such period, subject to such restrictions and conditions, and shall be in such form and shall contain such particulars, as may be prescribed.

(2) The conditions prescribed under sub-section (1) may include provision of accommodation by the licensee to [1][Prohibition and Excise officers] at the licensed premises on payment of rent or other charges for such accommodation at or near the licensed premises and the payment of the costs, charges and expenses (including the salaries and allowances of the [1][Prohibition and Excise officers] which the Government may incur in connection with the supervision to ensure compliance with the provisions of this Act, the rules made thereunder and the licence.

[2][(3) In addition to the fee prescribed under sub-sections (1) and (2) above, the Commissioner or an Authorized Officer may levy and collect any of the following from the manufacturers or retailers or bar owners or in house or other persons selling or excisable article as permitted under sub-section (1) of section 17:-

(a) Distillery Excise Tax
(b) Brewery Excise Tax
(c) Winery Excise Tax
(d) Micro Brewery Excise Tax
(e) Retail Shop Excise Tax
(f) Elite Shop Excise Tax
(g) Bar Excise Tax
(h) Bonafide use of Excisable articles Excise Tax.

(4) In addition to the fee prescribed in sub-sections (1), (2) and (3) above, the Commissioner or an Authorised Officer may levy and collect any of the following from the vendors or suppliers of excisable articles:-

(a) Early payment discount
(b) Trading fee
(c) Bulk stock delivery discount
(d) Registration fee
(e) Brand Registration fee
(f) Penalty for wrong dispatch
(g) Penalty for slow/non-moving stock
(h) Exemplary penalties in case of abnormal breakages.

Explanation:- For the removal of doubts, it is clarified that any fees or charges by whatsoever name called, collected in pursuance of this section or clause (d) of section 22 or any other section of this Act or any rules made under this Act, from time to time, for granting any lease, license or exclusive privilege for different purposes mentioned in sub-section (1) of section 17, shall irrespective of the time, mode and manner of such collection, be deemed to be

and always deemed to have been Excise duty or Countervailing duty on excisable articles levied and collected under section 21.]

[1] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

[2] Added by Act No.32 of 2017.

Section 29. Power to take security and counterpart agreement

Subject to such rules as may be prescribed, any authority granting licence under this Act may require the licensee -

(a) to give security for the observance of the terms of his licence; and

(b) to execute a counterpart agreement in conformity with the tenor of his licence.

Section 30. Technical defects, irregularities and omissions

(1) No licence granted under this Act shall be deemed to be invalid by reason merely of any technical defect, irregularity or omission in the licence or in any proceedings taken prior to the grant thereof.

(2) The decision of the Commissioner as to what is a technical defect, irregularity or omission, shall be final.

Section 31. Power to cancel or suspend licence, etc

(1) Subject to such restrictions as may be prescribed, the authority granting any licence or permit under this Act, may cancel or suspend it, [1][irrespective of the period to which the licence or permit relates],-

(a) if any duty or fee is payable by the holder thereof is not duly paid; or

(b) in the event of any breach by the holder thereof, or by any of his servants or by any one acting on his behalf with his express or implied permission, of any of the terms and conditions thereof; or

(c) if the holder thereof or any of his servants or any one acting on his behalf with his express or implied permission, is convicted of any offence under this Act; or

(d) if the holder thereof is convicted of any cognizable and non-bailable offence or of any offence under [2][the Narcotic, Drugs and Psychotropic Substances Act, 1985] or under the Medicinal and Toilet Preparations (Excise duties) Act, 1955, or under the Trade and Merchandise Marks Act, 1958, or under section 481, section 482, section 483, section 484, section 486, section 487, section 488, or section 489 of the Indian Penal Code or any offence punishable under section 112 or section 114 of the [2][Customs Act, 1962 irrespective of the fact whether such conviction relates to the period earlier or subsequent to the grant of licence or permit; or]

(e) If the conditions of the licence or permit provide for such cancellation or suspension at will:

Provided that no licence or permit shall be cancelled or suspend unless the holder thereof is given an opportunity of making his representation against the action proposed.

(2) Where a licence or permit held by any person is cancelled under clause (a), clause (b), clause (c), or clause (d) of sub-section (1), the authority aforesaid may cancel any other licence granted or permit issued to such persons under this Act or under the Opium Act, 1878.

(3) The holder of a licence or permit shall not be entitled to any compensation for its cancellation or suspension nor to the refund of any fee paid or deposit made in respect thereof.

[1] Inserted by Act No.10 of 1989.

[2] Substituted by Act No.10 of 1989.

Section 32. Power to withdraw licence

(1) Whenever the authority which granted any licence under this Act considers that such licence should be withdrawn for any cause other than those specified in section 31, it may withdraw the licence on the expiration of not less than thirty days notice in writing of its intention to do so.

(2) When a licence is withdrawn under sub-section (1) [1][or clause (e) of sub-section (1) of section 31] part of the licence fee proportionate to the unexpired portion of the terms of the licence and the deposit made by the licensee in respect thereof shall be refunded to him after deducting the amount, if any, due from him to the Government.

[1] Inserted by Act No.28 of 1998.

Section 33. Surrender of licence

(1) Any holder of a licence granted under this Act to sell an excisable article may surrender his licence on the expiration of one month's notice in writing given by him to the [1][District Prohibition and Excise Officer] of his intention to surrender the same but the licence fee proportionate to the unexpired portion of the term of the licence for which it would have been current but for such surrender shall not be refunded.

(2) sub-section (1) shall not apply in the case of any licence issued in respect of a lease granted under section 17.

[1] Throughout the Act, for the words "Prohibition and Excise Superintendent" the words "District Prohibition and Excise Officer" substituted vide. Act No.32 of 2017.

CHAPTER VII. OFFENCES AND PENALTIES.

Section 34. Penalties for illegal import, etc

[1][Whoever, in contravention of this Act or of any rule, notification or order made, issued or passed there under or of any licence or permit granted or issued under this Act,-

(a) imports, exports, transports, manufactures, collects or possesses or sells any intoxicant; or

(b) taps any excise tree; or

(c) draws toddy from any excise tree; or

(d) constructs or works any distillery or brewery; or

(e) uses, keeps or has in his possession any materials, stills, utensils, implements or apparatus whatsoever for the purpose of manufacturing any intoxicant other than toddy; or

(f) bottles any liquor for purposes of sale; or

(g) buys any intoxicant; or

(h) possesses any material or film either with or without Government logo of any district in the State of Telangana or any other State or wrapper or any other thing in which intoxicants can be packed or any apparatus, or implement or machine for the purpose of packing any intoxicant;

(i) removes any intoxicant from any distillery, brewery or warehouse licensed, established or continued under this Act;

shall on conviction be punished,-

(1) in the case of an offence falling under clause (a),-

(i) where the intoxicant involved in the offence is less than such quantity as may be notified in this behalf with imprisonment for a term which shall not be less than six months but which may extend up to three years and with fine which shall not be less than rupees five thousand but which may extend up to rupees twenty thousand;

(ii) where the intoxicant involved in the offence is not less than the quantity notified as aforesaid with imprisonment for a term which shall not be less than [2][three years] and which may extend up to five years and with fine which shall not be less than rupees ten thousand but which may extend up to rupees one lakh; and

(2) in the case of an offence other than an offence falling under clause (a) with imprisonment which shall not be less than six months but which may extend to one year and with fine which may extend up to rupees ten thousand.]

[1] Section 34 substituted with marginal heading by Act No.4 of 1994.

[2] Substituted by Act No.8 of 2010.

Section 35. Penalty for rendering denatured spirit fit for human consumption

Whoever renders or attempts to render fit for human consumption any spirit, which has been denatured or has in his possession any spirit in respect of which he knows or has reason to believe that any such attempt has been made, shall on conviction, be punished with imprisonment for a term which shall not be less than two years but which shall not exceed five years and with fine which may extend to five thousand rupees.

Explanation.- For the purposes of this section it shall be presumed, unless and until the contrary is proved, that any spirit, which is proved on chemical analysis to contain any quantity of any of the prescribed denaturants, is or contains or has been derived from denatured spirit.

Section 36. Penalty for misconduct of licensees etc

(1) Whoever being a holder of a licence or permit granted or issued under this Act or being in the employ of such holder and acting on his behalf,-

(a) fails to produce such licence or permit on demand by any [1][Prohibition and Excise Officer] or any other officer

duly empowered to make such demand; or

(b) willfully does or omits to do anything in breach of any of the conditions of his licence or permit not otherwise provided in this Act; or

(c) Willfully contravenes any rule made under this Act; or

(d) permits drunkenness, disorderly conduct, riot or gaming in any place where in any intoxicant is sold or manufactured; or

(e) permits or suffers persons whom he knows or has reason to believe to have been convicted of any non-bailable offence, or who are reputed prostitutes or habitual offenders, to resort to, or assemble or remain in or on the premises where any excisable article is sold or manufactured; or

(f) sells any intoxicant to a person who is drunk; or

(g) sells or gives any intoxicant to any [2][person apparently under twenty one years of age or permits or suffers such person] to remain in or on the premises where any excisable article is sold or manufactured; or

(h) in contravention of section 19 employs or permits to be employed on any part of his licensed premises referred to in that section any child or person suffering from leprosy or other contagious disease, shall, on conviction, be punished -

(i) in the case of an offence falling under clause (a), clause (b), or clause (c), with imprisonment for a term which shall not be less than six months but which shall not exceed two years and with fine which may extend to one thousand rupees;

(ii) in any other case, with imprisonment which may extend to three months or with fine which may extend to five hundred rupees, or with both.

(2) Where any holder of a licence or permit under this Act or any person in his employment or acting on his behalf is charged with permitting drunkenness on the premises of such holder, and it is proved that any person was drunk on such premises, it shall lie on the person charged to prove that the holder of the licence and the persons employed by him took all reasonable steps for preventing drunkenness on such premises.

[1] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

[2] Substituted by Act No.4 of 1994.

Section 37. Penalty for adulteration, etc., by licensed vendor or manufacturers

Whoever being the holder of a licence for the sale or manufacture of any intoxicant under this Act, or a person in the employment of such holder,-

(a) mixes or permits to be mixed with intoxicant sold or manufactured by him any noxious drug or any foreign ingredient likely to add to its actual or apparent intoxicating quality or strength, or any article prohibited by any rule made under this Act when such admixture does not amount to the offence of the adulteration under section 272 of Indian Penal Code; or

(b) sells or keeps or exposes for sale as Foreign Liquor, liquor which he knows or has reason to believe to be [1][Indian Made Foreign Liquor]; or

(c) makes any bottle or the cork of any bottle, case, packing or other receptacle containing [1][Indian Made Foreign Liquor], or uses any bottle, case, package or other receptacle containing [1][Indian Made Foreign Liquor], with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such Act shall not amount to the offence of using a false trademark with intention to deceive or injure any person under section 482 of the Indian Penal Code; or

(d) sells or keeps or exposes for sale any [1][Indian Made Foreign Liquor] in a bottle, case, package or other receptacle with any mark thereon or on the mark thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of selling goods marked with a counterfeit trade-mark under section 486 of the Indian Penal code;

[2][(e) makes any block for printing counterfeit excise adhesive label, photo copies of such label for counterfeiting, prints any counterfeit excise adhesive label, makes counterfeit cork or capsule, to be used on bottles, packages or other receptacles containing [1][Indian Made Foreign Liquor] or Foreign Liquor or in possession of counterfeit excise adhesive label, cork, capsule, block or any other material to be used for printing such label or making such cork or capsule.] [3][shall on conviction be punished with imprisonment,-

[4][(i) in case of first offence for [5][a term which shall not be less than three years but which may extend upto five years] and with fine which shall not be less than rupees ten thousand but which may extend upto rupees thirty thousand.

(ii) in case of second or subsequent offence for [5][a term which shall not be less than three years but which may extend up to six years] and with fine which shall not be less than rupees fifty thousand but which may extend upto rupees one lakh.]

[1] Throughout the Act, for the words "Indian Liquor", the words "Indian Made Foreign Liquor" substituted vide. Act No.17 of 2006.
[2] Clause (e) inserted by Act No.4 of 1994.
[3] Substituted by Act No.10 of 1989.
[4] Substituted by Act No.4 of 1994.
[5] Substituted by Act No.8 of 2010.

Section 37A. Penalty for adulteration resulting in death etc

[1][(1) whoever mixes or permits to be mixed with any liquor or intoxicating drug any noxious substances or any substance which is likely to cause disability or grievous hurt or death to human beings, shall, on conviction, be punishable,-

(i) if, as a result of such an act, disability or grievous hurt or death is caused to any person, with imprisonment for a term which shall not be less than [2][three years] but which may extend upto imprisonment for life, and with fine which extend upto rupees one lakh;

(ii) in any other case, with imprisonment for a term which shall not be less than one year, but which may extend upto ten years, and with fine which may extend upto fifty thousand rupees.

Explanation: For the purpose of [3][this section and section 37B] the expression "grievous hurt" shall have the same meaning as in section 320 of the Indian Penal Code, 1860.

(2) whoever omits to take reasonable precautions to prevent the mixing of any noxious substance or any substance which is likely to cause disability or grievous hurt or death to human being, with any liquor or intoxicating drug shall, on conviction be punishable,-

(i) if as a result of such omission, disability or grievous hurt is caused to any person, with imprisonment for a term which shall not be less than [4][three years] but which may extend upto imprisonment for life, and with fine which may extend upto rupees one lakh;

(ii) if as a result of such omission, death is caused to any person, with imprisonment for a term which shall not be less than three years but which may extend upto imprisonment for life, and with fine which may extend upto rupees one lakh;

(iii) in any other case, with imprisonment of a term which shall not be less than one year but which may extend upto ten years and with fine which may extend upto rupees fifty thousand.

(3) Whoever possess any liquor or intoxicating drug in which any substance referred to in sub-section (1) is mixed, knowing that such substance is mixed with such liquor or intoxicating drug shall, on conviction, be punishable with imprisonment for a term which shall not be less than one year but which may extend upto ten years, and with fine which may extend upto rupees fifty thousand.]

[1] Section 37A along with marginal heading inserted by Act No.4 of 1994.
[2] Substituted by Act No.8 of 2010.
[3] Substituted by Act No.20 of 1994.
[4] Substituted by Act No.8 of 2010.

Section 37B. Order to pay compensation

[1][(1) Not withstanding anything contained in the Code of Criminal Procedure, 1973 the court when passing the judgment in a case falling under section 37A may, if it is satisfied that the death or grievous hurt or disability has been caused to any person or persons by consumption of liquor or intoxicating drug sold in any place, order the person who sold the liquor or intoxicating drug, whether or not he is convicted of an offence under section 37A to pay, by way of compensation, such amount as it deems just to the legal representatives of the deceased or to the person or persons to whom grievous hurt or disability has been caused:

Provided that where the liquor or intoxicating drug is sold in a licenced shop the liability, to pay the compensation under this section shall be on the licensee.

(2) Any person aggrieved by an order under sub-section (1) may, within ninety days from the date of the order, prefer an appeal to the High Court:

Provided that no such appeal shall lie unless the amount ordered to be paid under sub-section (1) is deposited in the

court which passed such order:

Provided further, that the High Court may entertain the appeal after the expiry of the said period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.]

[1] Section 37B with marginal heading inserted by Act No.20 of 1994.

Section 38. Penalty for consumption in the Chemists' shop

(1) A chemist, druggist, apothecary or keeper of a dispensary, who allows any intoxicant which has not been bonafide medicated for medicinal purposes to be consumed on his business premises by any person shall, on conviction, be punished with imprisonment for a term which may extend to three months and with fine which may extend to one thousand rupees.

(2) Any person who consumes any such intoxicant on such premises shall, on conviction, be punished with fine which may extend to two hundred rupees.

Section 39. Manufacture, sale or possession by one person on account of another

(1) Where any intoxicant has been manufactured or sold or is possessed by any person or on account of any other person and such other person knows or has reason to believe that such manufacture or sale was or that such possession is, on his account, the intoxicant shall, for the purpose of this Act, be deemed to have been manufactured or sold by or to be in the possession of such other person.

(2) Nothing in sub-section (1) shall absolve any person who manufactures, sells, or has possession of any intoxicant on account of another person from liability to any punishment under this Act for unlawful manufacture, sale or possession of such article.

Section 40. Penalty for cutting down or destroying [xxx] excise trees

Whoever contravenes the provisions of section 27, shall, on conviction, [1][be punished with imprisonment,-

(i) in case of the first offence, for a term which shall not be less than three months and with fine which shall not be less than one thousand rupees; and

(ii) in case of the second and subsequent offences for a term which shall not be less than six months and with fine which shall not be less than two thousand rupees;]

[1] Substituted by Act No.10 of 1989. ['Government' in marginal heading omitted].

Section 40A. Penalty for false statement made in declaration or affidavit

[1][Whosoever in any declaration or affidavit made to a [2][Prohibition and Excise Officer] makes any statement which is false or found to be false after due verification or which he believes to be false or does not believe it to be true, touching any point material to the object for which the declaration or affidavit is made or used shall be punished with imprisonment of either description for a term which shall not be less than six months but which may extend upto three years and shall also be liable to fine which may extend upto rupees ten thousand.]

[1] Section 40A with marginal heading inserted by Act No.4 of 1994.

[2] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

Section 41. Penalty for offences not otherwise provided for

Whoever does any act in contravention of any of the provisions of this Act, or of rule, notification or order made, issued or passed thereunder and not otherwise provided for in this Act shall, on conviction, [1][be punished with imprisonment which may extend upto six months and with fine which may extend upto five thousand rupees].

[1] Substituted by Act No.4 of 1994.

Section 42. Presumption as to commission of offence in certain cases

In prosecution under section 34, [1][section 37 and section 37A] it shall be presumed, until the contrary is proved, that the accused person has committed the offence punishable under that section in respect of-

(a) any intoxicant; or

(b) any still, utensil, implement or apparatus whatsoever in the manufacture of any intoxicant other than toddy; or

(c) any materials which have undergone any process towards the manufacture of any intoxicant or from which an intoxicant has been manufactured; for the possession of which he is unable to account satisfactorily.

[1] Substituted by Act No.20 of 1994

Section 43. Criminal Liability of Licensee for the acts of servants

Where any offence under section 34, section 35, section 37 or section 38 is committed by any person in the employment and acting on behalf of the holder of a licence or permit granted or issued under this Act, such holder shall also be punishable as if he has committed himself the said offence, unless he establishes that all due diligence was exercised by him to prevent the commission of such offence:

[1][xxx]

[1] Proviso omitted by Act No.10 of 1989.

Section 43A. Punishment for allowing premises etc., to be used for commission of an offence

[1][Whoever being a licensee under this Act and having the control or use of any house, room, enclosure, space, animal, conveyance knowingly permits it to be used for the commission by any other person of an offence punishable under any provision of this Act, shall be punishable in the same manner as if he had himself committed the said offence.]

[1] Section 43A with marginal heading inserted by Act No.10 of 1989.

Section 44. Enhanced punishment after previous conviction

If any person, after having been previously convicted of an offence punishable under section 34, section 35, section 37, section 38 or section 40 or under the corresponding provisions of any enactment repealed by this Act, subsequently commits and is convicted of any offence punishable under any of those sections, he shall be liable to twice the punishment which might be imposed on a first conviction under this Act:

Provided that nothing in this section shall prevent any offence which might otherwise have been tried summarily under [1][Chapter XXI of the Code of Criminal Procedure, 1973] from being so tried.

[1] Substituted by Act No.4 of 1994.

Section 45. Liability of certain things to confiscation

Whenever an offence has been committed, which is punishable under this Act, the following things shall be liable to confiscation, namely:-

(1) any intoxicant, materials, still, utensil, implements, or apparatus in respect of, or by means of, which, such offence has been committed;

(2) any intoxicant lawfully imported, transported, or manufactured, had in possession, sold or brought along with, or in addition to, any intoxicant liable to confiscation under clause (1); and

(3) any receptacle, package or covering in which anything liable to confiscation under clause (1) or clause (2), is found, and the other contents, if any, of such receptacle, package or covering and any animal, vehicle, vessel, raft or other conveyance used for carrying the same:

[1][xxx]

[1] Proviso omitted by Act No.4 of 1994.

Section 46. Confiscation by [1][Prohibition and Excise Officers] in certain cases

[2][(1) Notwithstanding anything contained in this Act or any other law for the time being in force, where anything liable for confiscation under section 45 is seized or detained under the provisions of this Act, the officer seizing and detaining such property shall, without any unreasonable delay, produce the said seized property before the Deputy [1][Commissioner of Prohibition and Excise] who has jurisdiction over the area.

(2) On production of the said seized property under sub-section (1), the [1][Deputy Commissioner of Prohibition and Excise] if satisfied that an offence under this Act has been committed, may, whether or not a prosecution is instituted for the commission of such an offence, order, confiscation of such property.

(3) While making an order of confiscation under sub-section (2), the [1][Deputy Commissioner of Prohibition and Excise] may also order that such of the properties to which the order of confiscation relates which in his opinion cannot be preserved or are not fit for human consumption be destroyed.

(4) Where the [1][Deputy Commissioner of Prohibition and Excise] after passing an order of confiscation under sub-section (2) is of the opinion that it is expedient in the public interest so to do, he may order the confiscated property or any part thereof to be sold by public auction or dispose departmentally.

(5) The [1][Deputy Commissioner of Prohibition and Excise] shall submit a full report of all particulars of confiscation to the [1][Commissioner of Prohibition and Excise] within twenty four hours of such confiscation.

(6) The [1][Deputy Commissioner of Prohibition and Excise] shall, for the purpose of this Act, have the same powers as are vested in a Civil Court under the Code of Civil procedure, 1908 when making enquiries under this section in respect of the following matters, namely:-

(a) receiving evidence on affidavits;

(b) summoning and enforcing the attendance of any person and examining him on oath; and

(c) compelling the production of documents.

[1] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

[2] Section 46 substituted with section 46, 46A to 46F by Act No.20 of 1994.

Section 46A. Issue of show cause notice

No order of confiscation of any property shall be made under section 46 unless the person from whom the said property is seized,-

(a) is given a notice in writing informing him of the grounds on which it is proposed to confiscate such property; and

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice.

Section 46B. Order of confiscation in the absence of offender

When an offence under this Act has been committed, but the offender is not known or cannot be found, or when anything liable to confiscation under this Act, and not in the possession of any person cannot be satisfactorily accounted for, the [1][District Prohibition and Excise Officer] may order confiscate such property:

Provided that no such order shall be made until the expiration of one month, from the date of seizing the goods intended to be confiscated.

[1] Throughout the Act, for the words "Prohibition and Excise Superintendent" the words "District Prohibition and Excise Officer" substituted vide. Act No.32 of 2017.

Section 46C. Appeal

Any person aggrieved by an order passed by [1][Deputy Commissioner of Prohibition and Excise] under section 46, may within sixty days from the date of passing such order, appeal to [1][Commissioner of Prohibition and Excise], who may after giving reasonable opportunity to the appellant pass such order as he deems fit.

[1] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

Section 46D. Order of confiscation not to interfere with other punishments

The order of confiscation under sub-section (2) of section 46 or section 46B shall not prevent from initiation of criminal proceedings against the accused under this Act. The result of criminal proceedings either acquittal or conviction or otherwise under the provisions of this Act, will have no bearing on the order of confiscation passed under this Act.

Section 46E. Bar of jurisdiction

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 when the [1][Deputy Commissioner of Prohibition and Excise] or the appellate authority is seized with the matter under this Act, no court shall entertain any application in respect of excisable articles, any package, covering, receptacle, any animal, vehicle or other conveyance used in carrying such articles as far as its release, confiscation is concerned and the jurisdiction of the [1][Deputy Commissioner of Prohibition and Excise] or the appellate authority with regard to the disposal of the same shall be exclusive.

[1] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

Section 46F. Property confiscated when to vest in Government

When an order of confiscation of any property has been passed under section 46 and such order has become final in respect of the whole or any portion of such property, such property or portion thereof, as the case may be, shall vest in Government free from all encumbrances.]

Section 47. Compounding of offences

(1) [1][The Collector, or any [2][Prohibition and Excise Officer]] specially empowered in that behalf may accept from any person whose licence or permit is liable to be cancelled or suspended under clause (a) or clause (b) of sub-section (1) of section 31 [3][for reasonable suspicion of his] having committed an offence falling under [4][clause (b), clause (c), or clause (g) of section 34], clause (d), clause (e), clause (f), clause (g) or clause (h) of section 36; clause (b), clause (c) or clause (d) of section 37; or section 41, a sum of money not exceeding [3][three lakh rupees] and subject to such minima as may be prescribed, in lieu of such cancellation or suspension or by way of compensation for the offence which may have been committed as the case may be; and in all cases in which any property, has been seized is liable to confiscation under this Act, may release the same on payment of the value thereof as estimated by such officer:

Provided that where the property so seized is a liquor manufactured in contravention of this Act, such liquor shall not be released but shall be disposed of in such manner as may be prescribed.

(2) On payment by the person, the sum of money or the value or both, as the case may be [5][in accordance with the provisions of sub-section (1) or section 47-A], such person, if in custody shall be set at liberty, and all the property seized may be released and no proceedings shall be instituted [5][or continued] against such person in any Criminal Court. The acceptance of compensation shall be deemed to amount to an acquittal and in no case any further proceedings be taken against such person or property with reference to same Act.

[1] Substituted by Act No.10 of 1989.

[2] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

[3] Substituted by G.O.Ms.No.162, Revenue (Excise-II) Department, dated 10.09.2015.

[4] Substituted by Act No.4 of 1994.

[5] Inserted by Act No.10 of 1989.

Section 47-A. Special powers of the Commissioner in regard to compounding of offences

[1][(1) Any person who is reasonably suspected of having committed an offence [2][falling under section 38] may apply to the Commissioner for compounding the offence before he is convicted.

(2) On receipt of such application, the Commissioner having regard to the circumstances of the case, may in his discretion order for compounding the offence on payment of a sum of money by way of compounding fee or compensation for the offence on such terms and conditions as he deems fit:

Provided that the sum of money fixed as compounding fee or compensation by the Commissioner under this section shall not be less than five times but not more than ten times the duty involved and where no duty is involved, not less that rupees fifteen thousand but not more than rupees one lakh:

Provided further that in all cases in which any property has been seized as liable to confiscation under this Act, may be ordered by him to be released on payment of the value thereof as estimated by him or by an officer authorized by him in this behalf:

Provided also that where the property so seized is liquor manufactured in contravention of this Act, such liquor shall not be released but shall be disposed of in such manner as may be prescribed.]

[1] Section 47-A with marginal heading inserted by Act No.10 of 1989.

[2] Substituted by Act No.4 of 1994.

Section 48. Penalty for vexatious delay

Any officer or person exercising powers under this Act, who vexatiously and unnecessarily delays forwarding to the nearest [1][Prohibition and Excise Officer] or to the officer-in-charge of the nearest police station, as required by sub-section (2) of section 60 any person arrested, shall on conviction, be punished with fine which may extend to two hundred rupees.

[1] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise

Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

Section 49. Penalty for [1][Prohibition and Excise Officer] refusing to do duty

Any [1][Prohibition and Excise Officer], who without lawful excuse, shall cease or refuse to perform or withdraw himself from the duties of his office unless expressly allowed to do so in writing by the Commissioner, or unless he shall, have given to his official superior officer two months notice in writing of his intention to do so, or who shall be guilty of cowardice, shall, on conviction, be punished with imprisonment, which shall not be less than one month but which shall not exceed three months, or with fine which shall not be less than five hundred rupees but which shall not exceed one thousand rupees or with both.

[1] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

Section 50. Penalty for abetment

Any officer or person who unlawfully releases or abets the escape of any person arrested under this Act, or abets the commission of any offence against this Act, or acts in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or contravened or the excise revenue may be defrauded and any officer of any other department referred to in section 53 who abets the commission of any offence against this Act in any place, shall, on conviction, for every such offence, be punished with imprisonment for a term which shall not be less than three months but [1][which shall not exceed one year.]

[1] Substituted by Act No.4 of 1994, and marginal heading also substituted.

Section 50-A. Penalty for assault

[1][Notwithstanding anything contained in the Indian Penal Code 1860 who ever assault or threatens to assault or obstructs or attempts to obstruct any [2][Prohibition and Excise Officer] in the discharge of his official duties in the matters of detection, seizure, arrest, investigation, prosecution of the offences under the Act or attempts to use criminal force on such [2][Prohibition and Excise Officer] shall be punished with imprisonment for a term which may extend to three years and with fine which may extend to rupees fifty thousands.]

[1] Section 50-A with marginal heading inserted by Act No.20 of 1994.

[2] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

CHAPTER VIII. DETECTION, INVESTIGATION AND TRIAL OF OFFENCES.

Section 51. Landholders, Officers and others to give Information

(1) Whenever any intoxicant is manufactured or collected or any excise tree is tapped or any hemp plant is cultivated, in or on any land or building, in contravention of this Act -

(a) all owners or occupiers of such land or building or their agents;

(b) (i) village officers or servants including members of the village police,

(ii) sarpanches, members and officers of the gram panchayat, and

(iii) all officers (other than [1][Prohibition and Excise Officers]), employed in the collection of revenue or rent on land on behalf of the Government, or a local authority in the locality in which such land or building is situate, shall in the absence of reasonable excuse, be bound to give notice of the fact to a Magistrate or to an officer of the Excise or Police or Revenue Department as soon as the fact comes to their knowledge.

(2) Every [1][Prohibition and Excise Officer] shall be bound to give immediate information either to his immediate official superior or to an Excise Inspector, of all breaches of any of the provisions of this Act, which may come to his knowledge under sub-section (1) or otherwise.

(3) All such officers, sarpanches, members or servants as are referred to in sub-section (1) shall be bound,-

(a) to take all reasonable measures in their power to prevent the commission of such breaches which they may know, or have reason to believe, are about or likely to be committed; and

(b) to assist the Commissioner in carrying out the provisions of this Act.

[1] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition

and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

Section 52. Power to enter and inspect places of manufacture and sale

The Commissioner or a Collector or any [1][Prohibition and Excise Officer] not below such rank as may be prescribed, or any police officer duly empowered in that behalf, may -

(a) enter and inspect, at any time, by day or by night, and any place in which any licensed manufacturer, manufactures or stores any intoxicant; and

(b) enter and inspect, at any time, within the hours during which sale is permitted, and at any other time during which the same may be open, any place in which any intoxicant is kept for sale by any person holding a licence under this Act; and

(c) examine the accounts and registers, and examine, test, measure or weigh any material, stills, utensils, implements, apparatus, or intoxicant found in such place.

[1] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

Section 53. Powers to arrest without warrant, to seize articles liable for confiscation and to make searches

(1) Any officer of the Government employed in the Excise, Police or Revenue Department of the State subject to such restrictions as may be prescribed and any other person duly empowered, may -

[1][(a) arrest without warrant any person for an offence punishable under section 27 or section 34 or section 35 or section 36 or section 37 or section 37A or section 40A or section 50 or section 50A];

(b) Seize and detain any excisable or other article which he has reason to believe to be liable to confiscation under this Act, or any other law for the time being in force, relating to excise revenue; and

(c) detain and search any person upon whom and any vessel, raft, vehicle, animal, package, receptacle or covering in or upon which, he may have reasonable cause to suspect any such article to be.

(2) When any person is accused or is reasonably suspected of committing an offence under this Act, other than an offence under section 34, section 35, section 36, or section 37, [2][section 37A or section 50] and on demand of any such officer as aforesaid, refuses to give his name and residence or gives a name and residence which such officer has reason to believe is false, he may be arrested by such officer in order that his name and residence may be ascertained.

[1] Substituted by Act No.20 of 1994.

[2] Inserted by Act No.20 of 1994.

Section 53-A. Obligation of officers to assist each other

[1][The Officers of the Departments of Police and Revenue shall, upon notice given or request made by the [2][Prohibition and Excise Officer] be legally bound to assist him in carrying out the provisions of the Act.]

[1] Section 53-A with marginal heading inserted by Act No.4 of 1994.

[2] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

Section 54. Power of Magistrate to issue a warrant

If a Magistrate, upon information and after such enquiry, if any, as he thinks necessary, has reason to believe that an offence under section 34, section 35, section 36, or section 37 has been, is being or is likely to be, committed, he may issue a warrant,-

(a) for the search of any place in which he has reason to believe that any intoxicant, still, utensil, implement, apparatus or materials which are used for the commission of such offence or in respect which such offence has been, is being, or is likely to committed, are kept or concealed; and

(b) for the arrest of any person whom he has reason to believe to have been, to be, or to be likely to be, engaged in the commission of any such offence.

Section 55. Power to search without warrant

Whenever the Commissioner or a Collector or any police officer not below the rank of an officer-in-charge of a police station or any [1][Prohibition and Excise Officer] not below the rank of Excise Sub-Inspector has reason to believe that an offence under section 34, section 35, section 36, [2][section 37 or section 37A] has been, is being or is likely to be, committed, and that a search warrant cannot be obtained without affording the offender an opportunity of escape or of concealing evidence of the offence, he may, after recording the grounds of his belief-

(a) at any time by day or by night enter and search any place and seize any thing found therein which he has reason to believe to be liable to confiscation under this Act; and

(b) detain and search and, if he thinks proper, arrest any person found in such place whom he has reason to believe to be guilty of such offence as aforesaid.

[1] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

[2] Substituted by Act No.4 of 1994.

Section 56. Power of [1][Prohibition and Excise Officer] in matters of investigation

(1) Any [1][Prohibition and Excise Officer] not below the rank of an Excise Sub-Inspector may, as regards offences under [2][section 27, section 34], section 35, section 36, [3][section 37 or section 37A or section 40A] exercise within such area as may be notified in this behalf, powers conferred on an officer-in-charge of a police station by the provisions, of [3][the Code of Criminal Procedure, 1973:]

Provided that any such power shall be subject to such restrictions and modifications, as may be prescribed.

(2) For the purposes of section 156 of the said code, the area in regard to which an [1][prohibition and excise officer] is empowered under sub-section (1) shall be deemed to be a police station and such officer shall be deemed to be the officer-in-charge of such station.

[1] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

[2] Substituted by Act No.10 of 1989.

[3] Substituted by Act No.4 of 1994.

Section 57. Report by investigating officer

If, on any investigation by an [1][Prohibition and Excise Officer] not below the rank of an Excise Sub-Inspector, it appears that there is sufficient evidence to justify the prosecution of the accused, the investigating officer shall, submit a report, which shall for the purpose of [2][section 190 of the Code of Criminal Procedure, 1973], be deemed to be a police report, to a Magistrate having jurisdiction to enquire into or try the case and empowered to take cognizance of offences on police reports.

[1] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

[2] Substituted by Act No.4 of 1994.

Section 58. Report by [1][Prohibition and Excise Officer]

Where any [1][Prohibition and Excise Officer] not below the rank of an Excise Sub-Inspector makes any arrest, seizure or search under this Act, he shall, within twenty-four hours thereafter-

(a) make a full report of all the particulars of the arrest, seizure or search to his immediate official superior, and

(b) unless bail be accepted under section 60, take or send the person arrested or the thing seized, with all convenient dispatch, to the nearest Magistrate for trial or adjudication.

[1] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

Section 59. Arrest, search, etc., how to be made

Any person arrested under this Act, shall be informed, as soon as may be, of the grounds for such arrest and save as otherwise expressly provided in this Act, the provisions of [1][the Code of Criminal Procedure, 1973], relating to arrests, detention in custody, searches, summonses, warrants of arrest, search warrants, the production of persons arrested and the disposal of things seized, shall apply, as far as may be, to all actions taken in these respects under this Act.

[1] Substituted by Act No.4 of 1994.

Section 60. Security for appearance in case of arrest without warrant

(1) The Government may, by notification, empower any [1][Prohibition and Excise Officer] to release on bail persons arrested under this Act otherwise than on a warrant.

(2) When a person is arrested under this Act, otherwise than a warrant, by a person or officer who is not authorized to release arrested persons on bail, he shall be produced before or forwarded to-

(a) the nearest [1][Prohibition and Excise Officer] who has authority to release the arrested persons on bail, or

(b) the nearest officer-in-charge of the Police station, whoever is nearer.

(3) Whenever any person arrested under this Act, otherwise than on a warrant, is prepared to give bail, and is arrested by or produced in accordance with sub-section (2) before an officer who has authority to release arrested persons on bail, he shall be released on bail or at the discretion of the officer releasing him, on his own bond.

(4) The provisions of [2][sections 441 to 446 and section 449 of the Code of Criminal Procedure, 1973] shall apply so far as may be, in every case, in which bail is accepted or, bond taken under this section.

[3][(5) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court shall grant any bail to any person accused of an offence punishable under sub-item (i) of item (1) of section 34 and to any person accused of an offence under clause (h) of section 34 or section 40A or section 50 or section 50A of this Act, unless the prosecuting officer is given an opportunity to oppose the application and the court record reasons while granting the bail.]

[1] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

[2] Substituted by Act No.20 of 1994.

[3] Added by Act No.8 of 2010.

Section 60-A. Non-bailable Offences

[1][The offences punishable under sub-item (ii) of item (1) of section 34 or section 37 or section 37-A shall be non-bailable and the provisions of the Code of Criminal Procedure, 1973, with respect to non-bailable offences shall apply to those offences.]

[1] Section 60-A with marginal heading inserted by Act No.8 of 2010.

Section 61. Procedure for prosecution and credit of fines to [1][Prohibition and Excise Department]

(1) No Magistrate shall take cognizance of an offence punishable-

(a) under section 38 or section 41 except on the complaint of the Collector or the [1][Prohibition and Excise Officer] not below the rank of the [2][District Prohibition and Excise Officer], in this behalf, or

(b) under any other section of this Act other than section 48, except on his own knowledge or suspicion or on the complaint or report of an excise or police officer.

(2) Notwithstanding anything in any other law for the time being in force in the State, all sums realised on account of fines imposed by a Magistrate on conviction of a person for any offence under this Act, shall, on such realization be credited to the head of account to which the receipts of the [1][Prohibition and Excise Department] are credited, after deducting there from the expenses incurred in connection with such realization.

[1] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

[2] Throughout the Act, for the words "Prohibition and Excise Superintendent" the words "District Prohibition and Excise Officer" substituted vide. Act No.32 of 2017.

Section 62. Magistrate's power to impose enhanced penalties

Notwithstanding anything in [1][section 29 of the Code of Criminal Procedure, 1973] it shall be lawful for any Magistrate of the first class to pass any sentence authorized by this Act in excess of his powers under section 32 of the said Code.

[1] Substituted by Act No.20 of 1994.

CHAPTER IX. APPEALS AND REVISION.

Section 63. Appeals

(1) Any person aggrieved by an order passed by any officer, other than the Commissioner or Collector, under this Act, may, within forty five days from the date of communication of such order, appeal to the Deputy Commissioner.

(2) Any person aggrieved by an order passed by the Deputy Commissioner or Collector under this Act, may, within sixty days from the date of communication of such order, appeal to the Commissioner.

Section 64. Revision

The Government may, either suo motu or on an application call for and examine the records of any officer in respect of any decision, order or other proceedings made under this Act, including those relating to the grant, issue or refusal of a licence, or permit, for the purpose of satisfying themselves as to correctness, legality or propriety of any such decision or order or as to the regularity of such proceedings, and if in any case, it appears, to them that such decision, order or proceedings should be modified, annulled, reversed or remitted for reconsideration they may pass orders accordingly:

Provided that no order adversely affecting any party, shall be passed under this section unless he has been given an opportunity of making his representation.

CHAPTER X. MISCELLANEOUS.

Section 65. Recovery of Government dues

(1) The following moneys, namely:-

(a) all excise revenue,

(b) any loss that may accrue when, in consequence of default, a lease under section 17 has been taken under management by the Collector, or has been resold by him,

(c) Amounts due to the Government by any person on account of any contract relating to the excise revenue, and

(d) The costs, charges and expenses (including the salaries and allowances of the [1][Prohibition and Excise Officers]) specified in sub-section (2) of section 28,

may be recovered from the person primarily liable to pay the same or from his surety, as if they were arrears of land revenue.

(2) when a lease has been taken under management, by the Collector, or has been resold by him, the Collector may recover, in the manner authorized by sub-section (1), any money due to the defaulter by any lessee or assignee.

(3) Arrears of moneys recoverable under this section shall bear interest [2][at such rate as may be prescribed.]

[1] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

[2] Substituted by Act No.27 of 1981.

Section 66. Government's lien on property of defaulter

In the event of default by any person licensed or holding a lease under this Act, his distillery, brewery, warehouse, shop or premises and all fittings, apparatus, stocks of intoxicants or materials for the manufacture of the same, held in or upon any such distillery, brewery, warehouse, shop or premises, shall be liable to be attached in satisfaction of any claim for excise revenue or in respect of any loss incurred by the Government through such default, and to be sold to satisfy such claim which shall be a first charge upon the proceeds of such sale.

Section 67. Recovery of dues by lessee under section 17

Any person to whom a lease has been granted in accordance with the provision of section 17, may in a case where sub-letting is not forbidden by the terms of the lease, proceed against any person holding under him for the recovery

of any money due in respect of such sub-lease as if it were an arrear of rent recoverable under the law for the time being in force with regard to landlord and tenant:

Provided that nothing in this section shall affect the right of any such grantee to recover any such money by a civil suit.

Section 68. Power of Government to exempt, etc

The Government may, by notification, and subject to such restrictions and conditions, as may be specified in such notification-

(a) exempt or reduce the excise duty levied under section 22 on any liquor sold-

(i) for use or consumption by the members of the Armed Forces of the Union; or

(ii) for use for bonafide medicinal, scientific, industrial or such like purpose;

(b) exempt any intoxicant from any of the provisions of this Act, other than those of Chapter V, in any specified area or for any specified period or occasion.

Section 68-A. Exemption of the Government from taking out licence or permit for production, manufacture, etc., of any intoxicants

[1][Notwithstanding anything in this Act, it shall not be necessary for the Government or any authority or officer acting on their behalf to take out a licence or permit under this Act for the production, manufacture, possession, import, export, transport, sale or purchase of any intoxicant.]

[1] Inserted along with marginal heading by Act No.23 of 1971.

Section 68-B. Power of the State Government to notify exemptions or grant relaxations

[1][The State Government may, by notification, in the [2]Telangana Gazette and subject to such restrictions and conditions as may be specified in such notification, make exemption or grant relaxation in respect of any of the provisions of the Act.]

[1] Section 68-B with marginal heading inserted by Act No.35 of 2005.

[2] Substituted by G.O.Ms.No.162, Revenue (Excise-II) Department, dated 10.09.2015.

Section 69. Protection of action taken under this Act

No suit or other legal proceedings shall lie against the Government or any [1][Prohibition and Excise Officer] or any other person empowered to exercise powers or to perform the functions under this Act for anything in good faith done or intended to be done under this Act.

[1] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

Section 70. Limitation of suits

No suit shall lie against the Government, or against the [1][Prohibition and Excise Officer], other than a suit by Government, in respect of anything done or alleged to have been done in pursuance of this Act, unless the suit is instituted within six months from the date of the Act complained of.

[1] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

Section 71. Offences by Companies etc

(1) If the person committing an offence under this Act is a company, the company as well as every person in-charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything in sub-section (1), where an offence under this Act, has been committed by company, and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the

offence is attributable to any neglect on the part of any director, manager, secretary, or other officer of the company, such director, manager, secretary, or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section:-

(a) "Company" means any body corporate and includes a firm or other association of individuals, and

(b) "Director" in relation to firm, means a partner in the firm.

Section 72. Power to make rules

(1) The Government, may, by notification [1][xxx], make rules for carrying out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, the Government may make rules,-

(a) prescribing the powers and duties of the [2][Prohibition and Excise Officers];

(b) regulating and delegation of any powers by the Commissioner or Collector or the [3][District Prohibition and Excise Officer] under section 8;

(c) prescribing the time and manner of presenting appeals and the procedure for dealing with appeals;

(d) regulating the import, export, transport, manufacture, cultivation, collection, possession, supply or storage of any intoxicant [4][or material] and may, by such rules, among other matters -

(i) regulate the taping of excise trees, the drawing of toddy from such excise trees, the marketing of the same and the maintenance of such marks;

(ii) declare the process by which spirits shall be denatured and the denaturation of spirit ascertained;

(iii) cause spirit to be denatured through the agency or under the supervision of its own officers; and

(iv) regulating the drawing of neera and the sale thereof;

(e) regulating the periods and localities in which, and the persons or classes of persons to whom, licenses for the wholesale or retail sale or buying of any intoxicant may be granted and regulating the number of such licenses which may be granted in any area;

[5][(ee) separately for shop, Bar or in-house, to regulate the localities in which and the persons or classes of persons to whom lease or licences or both may be granted and to regulate their number which may be granted in any area and the methods of selection for grant of such privilege, lease or licence;]

(f) prescribing the procedure to be followed and the matters to be ascertained before any licence for such sale or buying is granted for any locality;

(g) regulating the time, place and manner of payment of any duty or fee and the taking of security for the due payment of any duty or fee;

[6][(gg) specifying the factors which should be taken into consideration for according or withholding approval under section 24 and the period within which, and the manner in which, such approval shall be accorded or withheld;]

(h) prescribing the authority by which, the form in which and the terms and conditions on and subject to which any licence or permit shall be granted or issued and may, by such rules, among other matters-

(i) fix the period for which any licence or permit shall continue in force;

(ii) prescribe the scale of fees, or the manner of fixing the fees payable in respect of any lease, licence or permit, or the storing of any excisable article;

(iii) prescribe the amount of security to be deposited by the holders or any licence or permit for the performance of the conditions of the same;

(iv) prescribe the accounts to be maintained and the returns to be submitted by the licence holders;

(v) prohibit or regulate the transfer of licences; and

(vi) prescribe the ages under which it shall be unlawful to employ children and to sell or give to children excisable articles;

(i) providing for the destruction or other disposal of any intoxicant deemed to be unfit for use;

(j) regulating disposal of confiscated articles;

(k) regulating the grant of expenses to witnesses and to persons charged with offences under this Act, and subsequently released or acquitted;

(l) regulating the power of [2][prohibition and excise officers] to summon the witnesses;

(m) prescribing the tax payable to the Government in respect of excise trees from which toddy is drawn;

(n) constituting mobile courts of Magistrates in consultation with the High Court, for the trial of offences against any provisions of this Act or the rules or orders made thereunder;

(o) any other matter that may be prescribed under this Act.

(3) Any rules under this Act may be made with retrospective effect and when such a rule is made, the reasons for making the rule shall be specified in a statement to be laid before both Houses of the State Legislature.

(4) Every rule made under this Act, shall, immediately after it is made be laid before each House of the State Legislature if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiration of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which modification or annulment is notified, have effect only in such modified form or shall stand annulled, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

[1] Omitted by Act No.27 of 1981.

[2] Throughout the Act For Substituted 1. Excise Officer - Prohibition and Excise Officer 2. Commissioner of Excise - Commissioner of Prohibition and Excise 3. Additional Commissioner of Excise - Additional Commissioner of Prohibition and Excise 4. Deputy Commissioner of Excise - Deputy Commissioner of Prohibition and Excise 5. Assistant Commissioner of Excise - Assistant Commissioner of Prohibition and Excise 6. Excise Superintendent - $Prohibition and Excise Superintendent 7. Assistant Excise Superintendent - Assistant Prohibition and Excise and Superintendent 8. Excise Department - Prohibition and Excise Department [vide. Act No.17 of 1995.]

[3] Throughout the Act, for the words "Prohibition and Excise Superintendent" the words "District Prohibition and Excise Officer" substituted vide. Act No.32 of 2017.

[4] Inserted by Act No.33 of 2008.

[5] Inserted by Act No.35 of 2005.

[6] Inserted by Act No.6 of 1974.

Section 73. Repeal and savings

The following enactments, namely:-

(a) The Andhra Pradesh (Andhra Area) Abkari Act, 1886, with all subsequent statutory modifications thereof;

(b) The Andhra Pradesh (Telangana Area) Abkari Act, 1316F;

(c) The Andhra Pradesh (Tenlangana area) Intoxicating Drugs Act, 1333 F.

are hereby repealed:

Provided that section 8 of the [1]Telangana General Clauses Act, 1891 shall be applicable in respect of the repeal of the said enactments and sections 8 and 18 of the said Act, shall be applicable as if the said enactments had been repealed and re-enacted by the Telangana Act:

Provided further that such repeal shall not affect the right of the Government to continue to levy by virtue of the provisions of the Article 277 of the Constitution the gallonage fees on denatured spirits, methylated spirits and other spirits not fit for human consumption, which the Government were lawfully levying immediately before the commencement of this Act.

[1] Adapted by G.O.Ms.No.162, Revenue (Excise-II) Department, dated 10.09.2015.

Schedules

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[1][Schedule [xxx]] (official file, page 69)

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